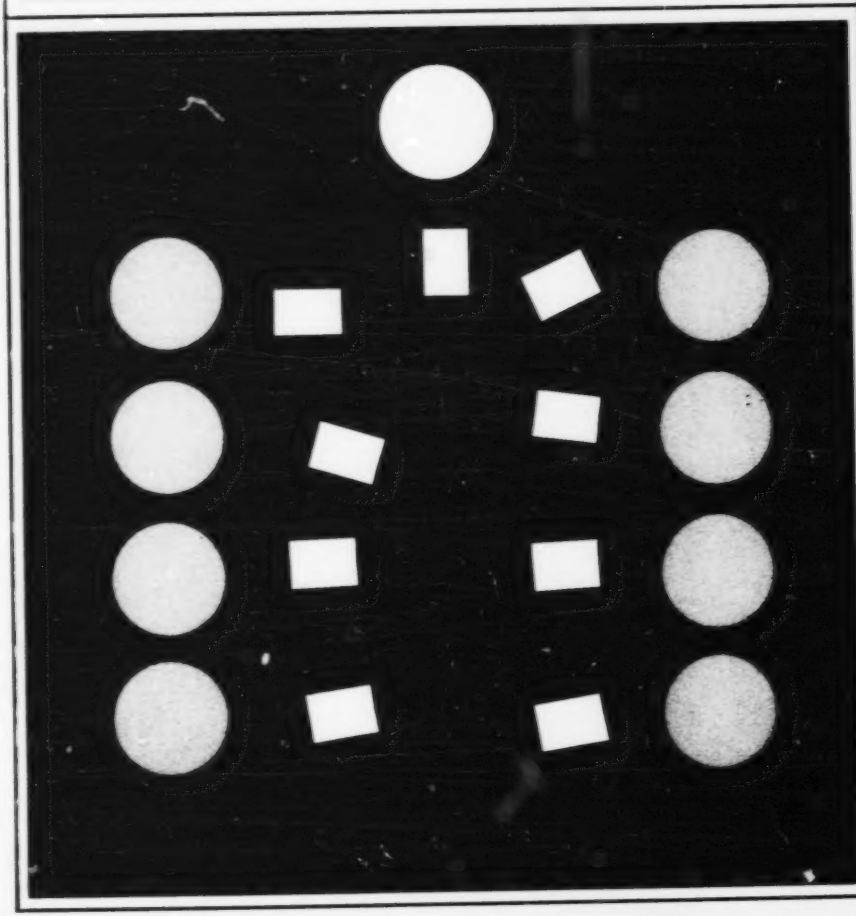
$3.95

Guide to the B.C. LABOUR CODE



Canadian Cataloguing in Publication Data

British Columbia. Ministry of Labour.
Guide to the B.C. Labour Code

ISBN 0-7719-8253-4

1. British Columbia. Laws, statutes, etc.
Labour Code of British Columbia Act. I. Title.

KE399.A72L32 344'.711'01 C79-092209-6

© 1980 Province of British Columbia
Second Edition, 1982

GUIDE TO THE B.C. LABOUR CODE

Second Edition

Province of British Columbia
Ministry of Labour

CONTENTS

PREFACE 5

ONE: THE LABOUR CODE 6

TWO: LABOUR RELATIONS BOARD OF B.C. ... 10

- Jurisdiction 10
- Composition 12
- Powers 12
- Remedial Authority 13
- Filing an Application or Complaint 14
- Reconsideration 15
- Role of the Minister of Labour 16

THREE: UNFAIR LABOUR PRACTICES 17

FOUR: CERTIFICATION PROCESS 20

- Joining a Union 20
- Applying for Certification 20
- Appropriate Bargaining Unit 22
- Requisite Employee Support 23
- Effect of Certification 25
- Duty of Fair Representation 25

FIVE: COLLECTIVE BARGAINING 26

- Bargaining Procedures and Requirements 26
- Imposition of a First Contract 27

SIX: THE COLLECTIVE AGREEMENT 28

Statutory Inclusions 28
Duration 29
Union Security Clauses 29
Religious Conscience 30
The Board and Grievance Arbitration 30

SEVEN: STRIKES AND LOCKOUTS 33

Mediation Services 33
Work Stoppages 33
Picketing 35

EIGHT: ALTERATIONS IN THE BARGAINING STRUCTURE 37

Raiding 37
Decertification 38
Council of Unions 38
Successor Employers 39
Associated Companies 39
Accredited Employer Organizations 40

NINE: UNORGANIZED EMPLOYEES 41

Appendix A - An Outline of the Labour Code of British Columbia 42

Appendix B - A Glossary of Labour Terms .. 47

Index 52

PREFACE

The Labour Code of British Columbia is the statute that regulates labour relations and collective bargaining in this Province. Whether you are an employee or an employer, it is important that you understand your rights and obligations under the Code. This Guide is an introduction to the operation of the Labour Code.

As you read through the information that follows, you should bear in mind that this Guide is not a legal document. Rather, it is intended only as an introduction for those who are unfamiliar with the Labour Code. If you require current or more detailed information, you should consult the Code itself, as well as the written decisions of the Labour Relations Board.

The Board is always willing to provide general information about the Code or the Board's operations, but persons with specific problems or questions related to labour law should consult an advisor who is familiar with the terms of the Code and the interpretations given to it by the Labour Relations Board.

Copies of the Labour Code may be obtained for $3.95 each by writing to the Queen's Printer, Parliament Buildings, Victoria, B.C. V8V 4R6. Copies of the Code's ancillary Regulations are also obtainable from the Queen's Printer.

Copies of the written decisions of the Labour Relations Board can be obtained from the Board for $3 each.

Ministry of Labour
Parliament Buildings
Victoria, B.C.
V8V 4R6

Labour Relations Board of B.C.
1275 West 6th Avenue
Vancouver, B.C.
V6J 1A4

ONE:
THE LABOUR CODE

The B.C. Labour Code is primarily concerned with collective bargaining and the quality of labour-management relations in this Province. The Code guarantees the right of every employee to join a union:

> Every employee is free to be a member of a trade-union and to participate in its lawful activities (Section 2(1)).

Employers are equally free to be members of an employer organization.

Many of the Code's provisions are designed to protect these fundamental freedoms. Indeed, the Code prohibits any conduct that is likely to interfere with the exercise of an individual's rights under the Code. Anyone who engages in conduct prohibited by the Code commits an unfair labour practice.

If a group of employees wants to be represented by a union, the Code provides the means for that union to be legally recognized as the exclusive bargaining agent for those employees. This recognition is called certification, and carries with it certain rights and obligations. The union acquires the right to bargain with the employer on behalf of the employees it represents (the bargaining unit), and to bind them to a collective agreement setting out the terms and conditions of their employment. In return for that right, a union has the duty to fairly represent all of the employees in the bargaining unit, whether or not they are members of the union.

The Code governs most aspects of the relationship between unions and employers. It contains provisions designed to promote collective bargaining, and sets out certain basic standards for every collective agreement. If the union and the employer are unable to reach an agreement,

the Code permits strikes, lockouts and picketing in order to enforce bargaining demands. However, the Code prohibits strikes and lockouts during the term of a collective agreement. All disputes arising during the term of a collective agreement must be resolved, without a work stoppage, by arbitration or some other method agreed to by the parties. Finally, the Code provides some assistance to the parties to resolve mid-contract disputes.

The first thing you should note is that not everyone is protected by the provisions of the Labour Code. Only those who meet the Code's definition of an employee are entitled to exercise collective bargaining rights. Accordingly, under the Code, persons referred to in the following list are not considered to be employees:

- anyone who is employed as a manager and who exercises the functions of a manager or superintendent in the direction or control of employees — the purpose of this exclusion is to avoid a conflict between a person's job duties and his or her involvement in a union;
- anyone employed in a confidential planning or advisory position in the development of management policy for the employer — this includes someone whose main interests lie with the employer and not the employees, although he or she may not exercise traditional management functions;
- anyone employed in a confidential capacity in matters related to labour relations or personnel — once again, this exclusion is designed to prevent a conflict of interest between a person's union membership and his or

her responsibilities to the employer; or
- a teacher, as defined in the School Act.

Dependent contractors and supervisors are *not* excluded from the purview of the Code. A dependent contractor is someone who performs work or services for another person in such a way that he or she is in a position of economic dependence on that person. A dependent contractor's position more closely resembles that of an employee than that of an independent contractor.

If any question arises concerning whether or not a person has employee status under the Code, it is the Labour Relations Board that makes the final decision; and the person's job title is not necessarily a deciding factor. The Board makes these decisions on a case-by-case basis and looks at what the person actually does in relation to the employer's business operations.

You should also note that there are some employees in British Columbia who are not covered by the Labour Code because they come within federal jurisdiction. Canada's constitution distributes most of the power affecting labour relations to the provincial and territorial governments. For that reason, most employers in British Columbia, and their employees, come within the scope of the Code. The federal government, however, does retain labour relations jurisdiction over employees who work in certain industries. Some examples of employees who come under federal jurisdiction are:

- employees of the federal public service and federal crown corporations;
- employees engaged in works or undertakings that connect a province with another province

or country (with the exception of pipeline work);

- employees of chartered banks;
- employees in radio and television broadcasting; and
- employees in the grain industry.

Collective bargaining rights for these employees are governed by the Canada Labour Code.

TWO:
LABOUR RELATIONS BOARD OF B.C.

The Labour Relations Board is an independent body established under the Labour Code with the authority to administer the Code's provisions. It is the Board's responsibility to decide all matters covered by the Code. In making these decisions, the Board must keep in mind certain general objectives and purposes set out in Section 27:

- to secure and maintain industrial peace;
- to further harmonious relations between employers and employees;
- to improve the practices and procedures of collective bargaining between employers and unions; and
- to promote conditions favourable to the orderly and constructive settlement of disputes between employers and employees, or employers and unions.

In attempting to achieve these aims, the Board must consider the public interest as well as the interests of the parties directly affected by its decisions.

Jurisdiction

The Board is the final decision-maker on any question that arises under the Code. Some of the matters the Board has jurisdiction to decide are listed in Section 34(1) of the Code. These include questions concerning whether:

- a person is an employer or employee;
- an organization is a union;
- a collective agreement has been entered into;
- a group of employees is a unit appropriate for collective bargaining;

- a person is a member in good standing of a union;
- a person is included in or excluded from an appropriate bargaining unit; and
- an activity constitutes a strike, lockout or picketing.

This is not a complete list of the powers exercised by the Board, but it does show that the Legislature has given the Board the power to decide the vast majority of matters that can arise in collective bargaining.

The Board is also responsible for the administration of a number of other Acts, the most important of which are:

The Public Service Labour Relations Act: This Act regulates collective bargaining between the provincial government as employer and the unions representing its employees. It contains special provisions dealing with the structure of bargaining units and the form of collective agreements in the provincial public service.

The Essential Service Disputes Act: As its name suggests, this Act is designed to regulate disputes in essential services. It can be applied, where necessary, to disputes involving most crown corporations and public educational institutions, municipalities, regional districts, improvement district corporations under the Water Act, firefighters, policemen, and health-care unions. If the Lieutenant Governor in Council feels that a strike or lockout involving any of the unions or employers named in the Act poses an immediate danger to life, health or safety, or a substantial

threat to the economy and welfare of the Province and its citizens, two options are available. A maximum 90-day cooling-off period can be declared, during which time all work must be resumed; or the Board may be asked to designate some or all of the disrupted services as essential. Any service the Board designates as essential must be maintained in full. As well, the Act gives to firefighters, policemen, and health-care unions the option of having their bargaining disputes settled through arbitration.

Composition

The Labour Relations Board is made up of a chairman, a number of vice-chairmen, and an equal number of representatives of both employers and unions. A panel appointed by the chairman of the Board to hear a case under the Code usually consists of the chairman or a vice-chairman, one representative from the employer community, and one from the union community. A panel may, however, consist of the chairman or a vice-chairman sitting alone.

Powers

In order for the Board to be able to conduct an effective investigation into complaints under the Code, it has been granted a number of powers by the Legislature. The general powers of the Board are set out in Section 35 and include the following:

- to summon witnesses and compel them to give evidence under oath and produce any documents the Board considers necessary;
- to enter any workplace during working hours

to inspect those premises and question any person regarding them;

- to order votes to be taken to ascertain the wishes of employees in relation to proceedings under the Code;
- to delegate the task of investigation to any person;
- to add parties to proceedings at any stage of the proceedings; and
- to abridge or extend the time for instituting any proceeding under the Code.

The Board frequently delegates the task of investigation to an industrial relations officer from the Ministry of Labour who then files a report of his findings with the Board. The Board also gives all parties full opportunity to present evidence and make submissions on a matter before it. The Board is not limited to accepting only evidence that would be admissible in a court of law.

Remedial Authority

The Board has a wide range of remedies available to it. In most cases, the source of the Board's authority to grant a remedy is Section 28 of the Code. Should the situation under consideration be considered an unfair labour practice, then the authority is found in Section 8. If the Board finds that the Code has been violated, it can order the person violating the Code to, among other things:

- refrain from continuing the breach of the Code (this order is generally referred to as a cease-and-desist order); and
- rectify the contravention of the Code by the payment of money, or perhaps reinstatement

of an employee who has been discharged in violation of the Code.

The Board may also:

- determine the value of an injury or loss resulting from a violation of the Code, and order the violator to pay that money; and
- make any other order the Board considers appropriate.

The Board has the discretion to refuse to make an order if it feels it is proper to do so.

A refusal to carry out an order made by the Board under the Code may result in the filing of that order in the Supreme Court of British Columbia for enforcement.

Filing an Application or Complaint

The Labour Code Regulations require that every proceeding before the Board be commenced by the filing of an application or complaint in writing. This application or complaint should outline the nature of the case, and the remedy that is being requested from the Board. In some instances, the Regulations specify the form to be used when filing an application or complaint. These forms can be obtained from the Board's offices upon request.

Once an application or complaint is received, the Board will make sure that all parties affected are notified and invited to make submissions. The Board generally sets a time limit within which submissions must be received, but if there is any problem you may either telephone or write to the Board and request a brief extension.

The Board will generally appoint an industrial relations officer to investigate the application or complaint.

Once the officer has completed the investigation, a detailed report is filed with the Board. Since the Board often makes its decision on the basis of the submissions of the parties and the officer's report, that report is a valuable tool in the Board's decision-making process. For that reason, the co-operation of the parties in providing the officer with all relevant information is of great assistance to the Board in the resolution of disputes.

Applications to the Board frequently result in the parties reaching a voluntary accommodation. In fact, the Board prefers to assist the parties in settling their own disputes, rather than impose a settlement.

There is no requirement that the Board hold a hearing before making a decision. However, if the Board feels that a hearing is necessary, it will notify all parties concerned of the time and place for the hearing. Hearings are usually held at the Board's offices in Vancouver, but for the sake of convenience, a hearing may be held in some other location closer to the dispute. If someone who has been given notice of the hearing fails to attend, the Board may proceed with the hearing in the absence of that person.

Once the Board has reached its decision, it may either inform the parties of that decision by letter or, in more serious or significant cases, provide them with a written decision containing detailed reasons for its ruling.

Reconsideration

If a party to a decision believes that the Board is mistaken, the party may request the Board to reconsider its decision. The purpose of a reconsideration is to ensure that different Board panels properly interpret the Labour Code and consistently apply the principles developed by

the Board. An application for reconsideration must be received by the Board within 15 working days of the publication of the original decision, and must set out in full the grounds for making the application.

Role of the Minister of Labour

The Minister of Labour has an important role under the Labour Code. For example, the Minister has the authority to:

- appoint a mediation officer to assist the parties in settling their differences;
- direct the Board to consider imposing a collective agreement on an employer and union who are negotiating for the first time and having difficulty in reaching an agreement;
- direct the Board to consider whether a council of unions would be an appropriate bargaining agent for the purposes of bargaining with an employer or an employer organization;
- appoint an arbitrator to hear a dispute if the parties to a collective agreement cannot agree to one; and
- insert a provision into a collective agreement to deal with the effect of technological change.

THREE:
UNFAIR LABOUR PRACTICES

To ensure that employees can effectively exercise their right to join a union, the Code prohibits any conduct by employers, unions or other organizations or persons that might interfere with that freedom. Anyone who engages in conduct prohibited by the Code is said to have committed an unfair labour practice.

Section 3 of the Code prohibits an employer from:

- participating in or interfering with the formation or administration of a union;
- discharging, suspending, transferring, or laying off an employee because the employee seeks to exercise his or her right to belong to a union;
- imposing any condition in a contract of employment that attempts to restrain an employee from exercising his or her rights under the Code; and
- threatening a penalty or promising a benefit in order to compel an employee to refrain from becoming, or continuing to be, a member of a union.

If an employer discharges, suspends, transfers, lays off or otherwise disciplines an employee, it is up to that employer to prove that the action was not motivated by anti-union sentiment.

Unless an employer's actions are for the purpose of interfering with an employee's rights under the Code, the employer is not prohibited from:

- suspending, transferring, laying off or discharging an employee for proper cause;

- communicating to employees any fact or opinion reasonably held concerning the business; or
- making any change in the operation of the business that is reasonably necessary for the proper conduct of the business.

Under Section 5 of the Code, it is an offence for anyone to use any kind of coercion or intimidation that might have the effect of forcing someone either to join or not to join a union. The language of this Section is broad enough to prohibit such tactics by employers, unions, employees or anyone else.

Furthermore, a union commits an unfair labour practice if it tries to organize employees at the employer's place of business during working hours without the employer's consent.

If an employee believes that he or she has been the subject of an unfair labour practice, a complaint can be made to the Board. The Board will invite all interested parties to make submissions, and appoint an industrial relations officer to investigate the matter.

If the reason for the complaint is that an employee has lost his or her job, the parties can expect that the officer will proceed quickly with the investigation. The officer will contact the parties and look into the circumstances giving rise to the complaint. Sometimes, the officer's involvement will result in a settlement of the complaint. Once the officer has completed the investigation, a report will be filed with the Board.

If, after inquiry into the matter, the Board finds that an unfair labour practice has been committed, it may order a

remedy along the lines discussed in the previous chapter.

This is not a complete summary of the unfair labour practice provisions contained in the Code. For example, failure by a union to fairly represent the employees in the unit, or failure by either a union or an employer to negotiate in good faith in attempting to reach a collective agreement, are also considered to be unfair labour practices. These unfair labour practices are discussed in greater detail later in this Guide.

FOUR:
CERTIFICATION PROCESS

Instead of dealing individually with their employer, a group of employees may decide they want a union to represent them. The Code provides the means for that union to be recognized as the exclusive bargaining agent of those employees. This recognition is called certification.

Joining a Union

Usually, a group of employees who want union representation will contact an already established union; however, employees are free to form their own union. A union is defined as an organization or association of employees whose purposes include the regulation of relations between employees and their employers. The Code requires that a union be local or provincial in character; however, this may include local branches of national or international unions.

In order to fairly represent employees, the association or organization must be free from employer control or influence. It must also comply with the provisions of the Human Rights Code of British Columbia — i.e., it must not exclude or otherwise discriminate against individuals on grounds of sex, race, religion, colour, age, marital status, ancestry, place of origin, political belief, or a criminal conviction unrelated to employment activities. If the Board finds either employer domination or discrimination contrary to the Human Rights Code, it cannot certify the organization or association of employees under the Code.

Applying for Certification

In order to apply for certification, a union must be able to claim that it has, as members in good standing, 45 percent of the employees in the appropriate bargaining unit. Membership in good standing means that an em-

ployee has paid an initiation fee and signed an application for membership in the union.

Upon receipt of the union's application for certification, the Board advises the employer that the application is pending. The employer is then required to notify all affected employees by posting a notice of the application in a conspicuous location on the employer's premises. While an application for certification is pending, an employer is not permitted to alter the wages or any other term or condition of employment of the employees affected by the application without the consent of the Board.

At the same time, the Board appoints an industrial relations officer to investigate the accuracy of the information contained in the union's application. The officer's first task will be to contact the employer and secure a list of all employees in the unit on the date the Board received the union's application. This information is usually obtained by examining the employer's payroll records for that date. The officer will then contact the union in order to determine which employees were members in good standing of the union on the date the application was received by the Board. The officer will ask to see a signed application for membership and a receipt for the payment of the initiation fee for each employee the union claims as a member.

Once the investigation is complete, the officer files a detailed report with the Board. The Board will not, under any circumstances, disclose the names of the employees supporting a union's application for certification. All information contained in the industrial relations officer's report is confidential, and copies of the report are not available to either the union or the employer.

All interested parties are invited to make submissions to the Board with respect to the application. Normally, the Board will either grant or deny a certification application on the basis of the officer's report, the submissions of the parties, and a representation vote when required. In some circumstances, however, a hearing may be required. For example, a hearing may be necessary when a certification application is accompanied by unfair labour practice complaints, or a dispute about the appropriate bargaining unit.

Appropriate Bargaining Unit

When a union applies to be certified, it is applying to represent a specific group of employees. The Board must decide whether that group of employees is appropriate for collective bargaining purposes. In order to make that determination, the Board must specify which jobs should be covered by the certification. This is called the determination of the appropriate bargaining unit. The Board has exclusive authority to make that determination.

The Board must determine the appropriate bargaining unit before it can decide whether or not the union has the support of a majority of the employees in that unit. In seeking to determine whether a group of employees is appropriate for collective bargaining, the Board will consider a number of factors, including:

- administrative efficiency and convenience in bargaining;
- lateral mobility of employees;
- desirability of a common framework of employment conditions for similar work situations;
- industrial stability;

- historical representation patterns;
- nature of the industry; and
- geographical considerations.

Where practicable, the Board prefers large bargaining units to small or fragmented groups. However, smaller units will be permitted if appropriate.

Requisite Employee Support

As already indicated, certification will be granted only if a sufficient number of the employees in the appropriate bargaining unit want union representation. Under the Code, the wishes of the employees can be demonstrated:

- by having the union submit evidence that enough of the employees in the appropriate unit are members in good standing of the union; or
- by a representation vote.

If the union can show that more than 55 percent of the employees in the appropriate bargaining unit are members in good standing, certification will generally be granted without a vote. The Board may also grant a certification without a vote if it is of the opinion that a representation vote is unlikely to disclose the true wishes of the employees because of previous unfair labour practices by the employer.

If the union's membership evidence discloses that between 45 and 55 percent of the employees in the appropriate bargaining unit are members of the union at the time of the application for certification, then the Board will conduct a representation vote. When a representation

vote is ordered, the Board appoints a returning officer to supervise the vote. Both the union and the employer are entitled to appoint a scrutineer to be present when the vote is conducted.

All employees in the bargaining unit on a date set by the Board are eligible to vote. This is called the eligibility date. The returning officer will establish the voter's list after reviewing the employer's payroll records and, if necessary, consulting with the union. The returning officer will advise the parties of the time and place of the vote, which may be held at the employer's premises during working hours.

All votes are conducted by secret ballot. If there is any dispute as to the eligibility of an employee to vote, the employee in question will be permitted to cast a ballot. That ballot, however, will be kept separately in a sealed envelope, and the ballot box will also be sealed pending the Board's decision about that employee's eligibility. Once all questions of eligibility have been determined, the ballots will be counted.

If less than 55 percent of the employees in the appropriate bargaining unit participate in a representation vote, the Board has the discretion to order another vote. In order for a union to be certified, a majority of the employees who vote must favour representation by the union. If the union does not secure majority support, its application will be dismissed.

As you can see, the percentage support the union can claim among the employees in the bargaining unit on the date of application will generally dictate how the Board treats the application. Employee support is determined by evidence of membership in good standing:

- less than 45 percent membership — the application dismissed;
- 45 to 55 percent membership — a representation vote is ordered; the majority of employees who vote must favour union representation; and
- more than 55 percent membership — the union is normally certified without a vote.

Effect of Certification

Once the Board issues a certification, the union becomes the exclusive bargaining agent for every employee in the bargaining unit, whether or not the employee is a member of the union; the employer is not entitled to bypass the union and negotiate separate and individual contracts of employment with any of the employees in the bargaining unit.

Duty of Fair Representation

The right of a union to be the exclusive bargaining agent on behalf of the employees it represents carries with it the duty to fairly represent all of the employees in the bargaining unit, whether or not an employee is a member of the union. This means that a union cannot act in bad faith or in an arbitrary or discriminatory fashion in the representation of an employee. This duty arises both during the course of negotiations and in the administration of the collective agreement.

FIVE:
COLLECTIVE BARGAINING

After a union is certified, it is entitled to engage in collective bargaining on behalf of the employees it represents. The end result of this bargaining will be a collective agreement, which is a contract between the union and the employer concerning the terms and conditions of employment for the employees in the bargaining unit. A collective agreement is binding on all parties involved.

In order to make the bargaining process more efficient, the Code sets out certain procedures that must be followed.

Bargaining Procedures and Requirements

Collective bargaining is initiated when either the union or the employer serves the other party with a notice in writing to commence bargaining. Once such a notice has been served, the employer is not entitled to increase or decrease the rates of pay of employees, or to alter any other term or condition of their employment until four months after certification, or until a collective agreement is executed, whichever occurs first. If the parties are bargaining for the renewal of an existing agreement, notice can be served only when four months or less are left in the term of the agreement then in force. However, should neither party to the agreement serve notice to commence bargaining, then the Code provides that the notice is deemed to have been given 60 days prior to expiry of the agreement.

Once a notice to commence bargaining has been served, the union and the employer must begin "good-faith" bargaining within 10 days. The requirement for good-faith bargaining generally means that both parties must be sincere in their attempts to reach an agreement. This includes making every reasonable effort to conclude

an agreement. The bargaining process usually calls for a certain amount of give and take regarding the terms and conditions of employment. Failure to agree with the other side's bargaining demands does not, in itself, mean that a party is not bargaining in good faith, but a deliberate strategy by either party to prevent the reaching of an agreement is considered to be bad-faith bargaining. If one party engages in that kind of conduct, the other may lodge an unfair labour practice complaint with the Labour Relations Board.

Imposition of a First Contract

The Code anticipates that, in some instances, parties involved in the negotiation of their first collective agreement may experience more difficulties than unions and employers with a longer history of bargaining. For example, if one of the parties to a bargaining relationship adamantly refuses to bargain in good faith, then the other party may request the Minister of Labour to direct the Board to consider whether to impose a first agreement on both parties.

After receiving such a direction from the Minister of Labour, the Board will attempt to assist the parties to reach a voluntary settlement of the agreement. If this is not possible, then the Board may settle the terms and conditions of employment for the parties. A contract settled in this way is binding on the parties, but cannot be for a term longer than one year.

SIX:
THE COLLECTIVE AGREEMENT

A collective agreement is an agreement, in writing, between a union and an employer, setting out the terms and conditions of employment, including rates of pay and hours of work. There are certain basic standards that all agreements must meet. Over and above these statutory requirements, collective agreements generally deal with:

- overtime pay;
- statutory holidays;
- vacation times;
- seniority provisions;
- union security clauses; and
- health and welfare benefits.

The determination of the specific content of an agreement is left to the parties as long as their agreements do not conflict with laws related to such matters as minimum wages and hours of work, and as long as they contain the statutory provisions required by the Code.

Statutory Inclusions

The Labour Code requires that certain provisions be contained in every agreement.

Because the Code prohibits all work stoppages during the life of an agreement, an alternate method of resolving mid-contract disputes is required. The Code permits the parties to negotiate their own method for resolving disputes during the life of an agreement. Commonly, an arbitration clause — with binding third-party adjudication as the final step — is included in the collective agreement. If the agreement does not provide for some method of resolving mid-contract disputes, the Code contains a provision for arbitration that is deemed to be included in the agreement.

The Code also requires that every agreement contain a method for resolving disputes over the impact of any technological change that might occur during the life of an agreement. The purpose of this requirement is to ease the impact of technological innovations that affect the job security of employees, while allowing the employer to introduce new developments aimed at increased productivity.

Duration

The Code provides that every collective agreement shall be for a minimum term of one year, although the parties are free to assent to a longer term. During the life of an agreement, changes to any of its provisions can be made only with the consent of both the union and the employer.

Union Security Clauses

The Code permits the parties to an agreement to agree to a clause that provides for membership in a specified union as a condition of employment, or grants a preference for employment to members of a specified union. This type of clause is known as a union security clause. It comes in many forms, including:

- closed shop — the employer agrees to hire only union members; in most cases, this is done through the union hiring hall;
- union shop — every employee is required to become a member of the union within a specified period of time as a condition of continued employment; and
- Rand formula — although membership in the union is not required, every employee in the unit is required to pay union dues.

During the negotiation of a first agreement, an employer cannot refuse to agree to the insertion of at least a Rand formula union security clause requiring all employees in the bargaining unit to pay union dues to the union from time to time. Such a refusal is considered an unfair labour practice.

Religious Conscience

The religious beliefs of certain employees do not permit them to become members of a union. In situations in which an agreement requires union membership, those employees may apply to the Board for an exemption. If the Board grants the request, the employee must nevertheless pay the union an amount equivalent to the union dues paid by the other employees.

The Board and Grievance Arbitration

A grievance is a complaint under the terms of a collective agreement alleging that a party to that agreement has failed to abide by one of its terms. Normally, the agreement sets out a grievance procedure containing several steps. At each step in the procedure, the parties attempt to resolve their disagreement. If they are unable to do so, the agreement may provide for resort to third-party adjudication by a single arbitrator or an arbitration board. The arbitration board will consider the wording of the agreement and the evidence of the parties involved in the dispute, and will then render a decision. Its decision is binding on all parties concerned.

The Labour Relations Board has a limited involvement with grievance arbitration. Under Section 96(1) of the Labour Code, either party to the collective agreement can request that the Board appoint an officer to confer with

the parties and assist them in settling their differences. The Board will normally make the appointment if the dispute between the parties is a subject of arbitration under the agreement, and if all of the steps in the grievance procedure prior to arbitration have been completed.

The officer appointed by the Board will contact the parties in order to discover the factual background to the dispute. The officer will also meet with the parties, either separately or together, and attempt to secure a settlement of the matter. If an application made under Section 96(1) concerns the discharge of an employee, the parties can expect that it will be dealt with as soon as possible.

If, despite the assistance of the officer, the parties are unable to settle their differences, the officer then submits a detailed report to the Board. The Board can then decide to either:

- refer the matter back to the parties for arbitration; or
- inquire into the differences and make a final determination of the matter.

Grievances that involve factual disputes, or are of considerable significance to the parties, are usually referred back to the arbitration process under the collective agreement. However, if the differences can be disposed of on the basis of the officer's report and the submissions of the parties, or if they raise a significant issue under the Labour Code, the Board will make the final determination itself. The parties to an agreement are free to agree in writing to exclude the application of Section 96(1) during the life of their agreement.

Disputes during the life of a collective agreement may

also be resolved by a special officer appointed by the Minister of Labour. This appointment may be made in connection with any issue, whether or not it is covered by a provision of the agreement.

The decisions of arbitration boards are subject to appeal only on limited grounds. Jurisdiction to hear appeals from the decisions of arbitrators is divided between the Board and the British Columbia Court of Appeal. The Board's power of review is limited to the following grounds:

- that a party to the arbitration was denied a fair hearing; or
- that the decision of an arbitration board is inconsistent with the Code or another labour relations statute.

The jurisdiction of the Court of Appeal is limited to issues of general law not falling under the jurisdiction of the Board.

SEVEN:
STRIKES AND LOCKOUTS

If a union and an employer are unable to reach agreement through the bargaining process, there are a number of options available to them. The two most frequently used are mediation and strikes or lockouts.

Mediation Services

When the parties are having difficulty in concluding a collective agreement, they may decide that the involvement of a neutral third party would assist them. Either party can apply to the Minister of Labour to appoint a mediation officer to help them reach an agreement. Strikes and lockouts are not legal while a mediation officer is involved. The parties must wait until they have been advised by the Minister that he has received the mediator's report before they can legally engage in a strike or lockout.

Work Stoppages

Generally speaking, a strike is a refusal by employees to work, in order to compel an employer to agree to terms and conditions of employment. A strike need not be a complete stoppage of work; for example, overtime bans and work slowdowns can constitute a strike.

Similarly, a lockout is a restriction by the employer of work that would normally be available for employees, and which is intended to compel those employees, or to aid another employer to compel employees, to agree to terms and conditions of employment. The Code prohibits both strikes and lockouts during the life of a collective agreement. Any differences arising during its term are to be settled through the grievance and arbitration procedures set out in the agreement.

Even if there is no collective agreement in force, certain legal preconditions must be satisfied before a strike or

lockout can begin. These preconditions are:

- the union and the employer must first have engaged in collective bargaining;
- a vote must have been held to determine if the majority of voting employees favours a strike, or, in the case of an accredited employer organization, if the majority of the voting employers in the organization favours a lockout; and
- strike or lockout notice must have been given; and if a mediation officer has been appointed by the Minister of Labour, that appointment must have come to an end.

These are the only restraints on the timing of a strike or lockout.

As mentioned above, a strike or lockout vote must be held before a strike or lockout is legal. In both cases, the vote is by secret ballot, and all persons affected are entitled to vote. The vote must be conducted in accordance with the Board's Regulations. These Regulations are detailed, and include a requirement that a person appointed by the Board be in attendance during the taking and counting of votes.

A strike can be called at any time during the three months after the date of a favourable strike vote. If a strike is not called during that time, another vote must be held in order to renew the union's mandate to hold a strike. The same applies to lockout votes.

A union must give the employer 72 hours written notice of its intention to strike, before actually engaging in strike activity. Similarly, an employer must give 72 hours

written notice of a lockout. In certain instances, as when perishable property is involved, the Board may lengthen the normal 72-hour period of strike or lockout notice.

The Code provides that a withdrawal of services is not a strike if employees have stopped working because of a legitimate concern for their safety or health.

Picketing

When a strike or lockout is in progress, the Code allows employees to picket. Picketing is a peaceful means by which employees can increase the pressure on their employer to agree to terms and conditions of employment favourable to them. The purpose of the picket line is to attempt to persuade persons not to do work for, or do business with, the employer. A picket line, however, cannot be used to blockade an employer's premises.

While a strike or lockout is in progress, employees are entitled to find work with other employers, and an employer is entitled to keep on operating while its employees are on strike or locked out, as long as no use is made of professional strikebreakers. A professional strikebreaker is someone who is not a party to the dispute, but whose primary objective is to prevent, interfere with, or break up a lawful strike.

Employees are entitled to picket in more places than just the site of a strike or lockout. They are entitled to picket all other sites of business of their employer. They are also permitted to picket the place of business of an ally of the employer. An ally is someone who assists an employer in a lockout or in resisting a lawful strike.

Where more than one employer carries on business at the same site (such as at a construction site), the Board has

the discretion to restrict picketing so that it affects only their employer or allies of their employer.

Only picketing that results from a legal strike or lockout is lawful under the Code. All other forms of picketing are prohibited by the Code. Decisions as to the legality or illegality of a strike, lockout, or picketing are made by the Board. In most cases, when a complaint is filed, the Board will attempt to assist the parties in settling their differences. A formal hearing may be required, however, and if the Board determines that the strike, lockout, or picketing is contrary to the Code, a formal order may be issued to restrain that conduct.

EIGHT:
ALTERATIONS IN THE BARGAINING STRUCTURE

The Board receives a good number of applications that seek to change an existing bargaining structure. Some of the changes sought are minor, and can be accomplished by a simple alteration to the certification. For example, if an employer changes the name or address of its business operations, the union can apply to have its certification altered to reflect that change. Other changes are more substantive in nature and involve actual changes in the parties to the bargaining equation. The means by which these changes most frequently occur are discussed below.

Raiding

The Code permits employees to change their bargaining agent. This can be done by joining another union. Once that union secures the support of a majority of the employees in the unit, it can apply to be certified in place of the original union. In order to minimize disruption at the work place, however, the Code does place some limitation on the time period during which a raiding union can apply to displace an incumbent union.

Once a union has been certified to represent the employees in a bargaining unit, the Code allows that union six months to attempt to reach an agreement with the employer. If no agreement is reached after the expiration of six months, or such shorter time as the Board may agree to, another union is free to apply to be certified for the same unit. If, however, a collective agreement is in force, the Board will entertain applications for the same unit only during the seventh and eighth months in each year of the term of the agreement. Moreover, if a raiding application (whether successful or not) is made during the seventh or eighth month of a contract year, no additional applications

will be permitted in the following year.

Furthermore, when a union applies to displace another union, and is able to demonstrate that its application is timely, and that it has signed up a majority of the affected employees, the Board will normally conduct a vote to determine which of the unions the employees want to represent them.

Decertification

Just as employees can choose to be represented by a union, they can also choose to have any existing union's representation cancelled. An application can be made to cancel the certification of a union in various circumstances, some of which are as follows:

- if the Board is satisfied that a union has ceased to be a union;
- if the Board is satisfied that an employer has ceased to be the employer of the employees in the unit; and
- if 10 months have elapsed after certification of a union, and the Board is satisfied that the union has ceased to represent the majority of the employees in the unit.

The Board will usually conduct a vote of the employees in the bargaining unit before cancelling a certification. When the certification is cancelled, any collective agreement in force for that unit is also cancelled. However, the Board will not cancel a certification if it is determined that the application came about as a result of employer influence.

Council of Unions

In keeping with the preference for large bargaining

units, the Code contains a provision for two or more unions to be designated as a single bargaining agent. The Board will consider creating such a council of unions under the direction of the Minister of Labour.

When a council of unions is formed, it becomes the exclusive bargaining agent for all employees previously represented by two or more unions. This does not mean the previously existing unions no longer have a role to play; in the conduct of collective bargaining, they must act together under a constitution prepared by them or by the Board.

Changes can also occur on the employer's side of the bargaining equation.

Successor Employers

When an employer disposes of its business or a substantial part of the entire assets of its business, the employees do not lose any rights that they have gained under the Code. All of those rights will operate in their relationship with the new employer. If a collective agreement is in force at the time of the disposition of a business, or of a substantial part of the assets of a business, then that agreement binds the new employer to the same extent as if that new employer had signed it.

Associated Companies

The Board has the power to ensure that rights that employees have gained under the Code are not adversely affected by corporate shifts or alterations. If the Board is of the opinion that associated or related activities are carried on through more than one company, and those companies operate under common control or direction, then, for the purposes of the Code, the Board may declare and treat

those companies as one employer. The intent of such a Board declaration is usually the preservation of existing rights and obligations under certifications, accreditations and collective agreements.

Accredited Employer Organizations

Employers are also entitled to band together for bargaining purposes. If a group of employers decides to seek accreditation under the Code, the result is the formation of a single bargaining agent to represent them. Like a council of unions, an accredited employer organization will have a constitution.

Any employer member who wishes to withdraw from the organization may apply to the Board to be deleted from the accreditation, but the Board will consider such an application only in the fourth and fifth months of the collective agreement.

NINE:
UNORGANIZED EMPLOYEES

As you can see, the main thrust of the B.C. Labour Code is the regulation of relations between employees who elect union representation, and their employers. The provisions of the Code are not applicable to the kinds of problems encountered by employees who deal individually with their employers.

There is, however, a body of provincial legislation designed to establish certain minimum standards of employment for all employees in the Province, whether or not not the employee belongs to a union; this is referred to as employment standards legislation. This legislation is administered directly by the Ministry of Labour, not by the Labour Relations Board. The areas covered by this legislation include minimum wages, hours of work, annual and general holidays, and payment of wages.

If you have any question about your rights as an employee, you should contact the nearest office of the Ministry of Labour (address on inside back cover) or the Government Agent in your area.

APPENDIX A
AN OUTLINE OF THE LABOUR CODE OF BRITISH COLUMBIA

Section 1(1)	Definitions
	PART I **Rights of Employees and Employers, and Unfair Labour Practices**
Section 2(1)	Freedom of employees to belong to a union.
Section 2(2)	Freedom of employers to be members of employer organizations.
Section 3	Unfair labour practices of employers against membership in unions.
Section 4	Limitations on activities of unions.
Section 5	Prohibition of coercion or intimidation.
Section 6	Duty to bargain in good faith.
Section 7	Duty of fair representation owed by union and employers to their members.
Section 8	Remedies regarding unfair labour practices.
Section 9	Right to include, in collective agreement, provisions dealing with membership in union and collection of fees.
Section 10	Form of assignment of wages.
Section 11	Exemption from union membership on grounds of religious belief.
	PART II **Labour Relations Board**
Sections 12-29	Establishment, composition, powers and procedures of the Board.
Section 27	Purposes and objectives of the Board.

Section 28	Hearing of complaints and remedies for breaches of the Code.
Section 29	Power to attach conditions to an order.
Section 30	Filing of Board order in Supreme Court.
Sections 31-34	Defining the jurisdiction of the Board.
Section 35	General powers of the Board.
Section 36	Reconsideration of Board decisions.
Section 37	Several businesses treated as one employer by the Board.
Section 38	Power of Board to give declaratory opinions.
	PART III
	Acquisition and Termination of Bargaining Rights
Sections 39-51	Procedures and conditions necessary for a union to obtain certification.
Section 52	Cancellation of certification.
Section 53	Successor employers' rights and obligations.
Section 54	Mergers or amalgamations of unions.
Section 55	Votes by secret ballot.
Section 56	Continuation of certification.
Sections 57-58	Councils of unions.
Sections 59-60	Accredited employer organizations.
	PART IV
	Collective Bargaining Procedures
Section 61	Notice to bargain collectively.
Section 62	Notice prior to expiry of agreement.

Section 63	Commencement of collective bargaining.
Sections 64-65	Collective agreement binds union and employer.
Section 66	Term of collective agreement.
Section 67	Copies of agreement to be filed with the Board.
Section 68	Appointment of local representative by extra-provincial companies.
Section 69	Mediation services.
Sections 70-72	Imposition of first collective agreement.
Section 73	Essential services.
Sections 74-78	Technological change and the collective agreement.
	PART V
	Strikes, Lockouts and Picketing
Section 79	Prohibition of strikes and lockouts during term of collective agreement.
Section 80	Strikes and lockouts prohibited before bargaining and vote.
Sections 81-82	Preconditions for strike or lockout.
Section 83	Right of employer to discontinue business, and right of employee to refuse to work because of danger to safety or health.
Section 84	Right of union to communicate information.
Sections 85-89	Picketing.
Section 90	Declaratory opinions for the benefit of third parties.

Section 91	Right of the Board to refuse to make an order.
	PART VI
	Arbitration Procedures
Section 92	Definition and purposes of arbitration.
Section 93	Requirement for arbitration provisions in collective agreement.
Sections 94-95	Role of Minister regarding unworkable or inadequate arbitration provisions.
Section 96	Referral of grievance to officer or Board.
Section 97	Action by Board in situations of industrial unrest.
Section 98	Authority of arbitration board.
Section 99	Fees and costs of arbitration.
Section 100	Delay by arbitration board.
Sections 101-107	Powers of arbitration board.
Section 108	Appeal jurisdiction of the Board.
Section 109	Finality of decision of arbitration board.
Section 110	Enforcement of arbitration award.
Section 111	Arbitration assistance by the Minister.
Section 112	Circumstances in which government shares cost of dispute resolution.
	PART VII
	Special Offer
Sections 113-120	Appointment and powers of special officer.

Section 121	Notification of Board, by Minister, of officer's appointment.
Section 122	Appointment of industrial inquiry commission.
Section 123	Appointment of committee of special advisors.
Section 124	Appointment of industry advisory council.
Sections 125-126	Other powers of the Minister.
Section 127	Confidentiality of information.
	PART VIII
	Labour Ombudsman (not proclaimed)
Sections 128-132	Appointment, jurisdiction and powers of labour ombudsman.
Sections 133-134	Report and recommendations of labour ombudsman.
Section 135	Report to the Minister if action on recommendations is not satisfactory.
Section 136	Labour ombudsman is an officer of the Ministry of Labour.
Section 137	Effect on other Acts.
	PART IX
	Miscellaneous Provisions
Sections 138-153	Miscellaneous provisions including penalty for failure to observe Board order (138) and power of Lieutenant Governor in Council to make regulations for the purposes of the Code.

APPENDIX B
A GLOSSARY OF LABOUR TERMS

Ally: a person who assists an employer in a lockout or in resisting a lawful strike.

Arbitration: a method of settling a labour-management dispute by having an impartial third party render a decision that is binding on both the union and the employer.

Bargaining agent: a union certified by the Labour Relations Board as an agent to bargain collectively for a bargaining unit; also a person or employer organization accredited by the Labour Relations Board, and authorized by an employer to bargain on its behalf.

Bargaining unit: an employee group recognized by the Labour Relations Board as the appropriate unit for collective bargaining.

Canada Labour Code: the statute regulating labour relations and collective bargaining for employees under federal jurisdiction.

Cease-and-desist order: an order by the Labour Relations Board directing a party to refrain from doing something.

Certification: official recognition by the Labour Relations Board that a union is the exclusive bargaining representative for employees in a particular bargaining unit.

Collective agreement: an agreement, in writing, between a union and an employer, setting out the terms and conditions of employment, including rates of pay and hours of work.

Collective bargaining: a method of determining wages, hours and other conditions of employment through direct negotiation between a union and an employer.

Company union: an employee association dominated by an employer.

Conditions of employment: rates of pay, hours of work, etc.

Consent order: an order by the Labour Relations Board incorporating an agreement made by the parties.

Cooling-off period: the period of time that must elapse before a strike or lockout may begin or resume.

Council of unions: a number of bargaining units with separate bargaining agents amalgamated into one larger bargaining unit.

Decertification: cancellation by the Labour Relations Board of a union's certification.

Duty of fair representation: the duty of a union or employer organization to fairly represent its members.

Employer bargaining association: a bargaining association composed of more than one employer.

Good-faith bargaining: bargaining in which the two parties make every reasonable effort to reach a collective agreement.

Grievance: a disagreement over the interpretation or application of a provision in a collective agreement; an allegation by one party that the other has disobeyed the terms of the agreement.

Industrial inquiry commission: a person or persons appointed by the Minister of Labour to investigate a dispute and make recommendations for its settlement.

Industrial relations officer: an employee of the Ministry of Labour appointed by the Labour Relations Board to investigate disputes.

Labour Code: the basic statute regulating labour relations and collective bargaining in B.C.

Labour Relations Board: the agency established under the Labour Code to administer and enforce the various provisions of the Code.

Lieutenant Governor in Council: consists of the Lieutenant Governor, the Premier, and all government ministers.

Lockout: a restriction by an employer of work that would normally be available for the employees to perform, and which is intended to compel those employees, or to aid another employer to compel employees, to agree to terms and conditions of employment.

Lockout notice: an announcement, in writing, given to the union by the employer, that it is the employer's intention to lock out employees.

Mediation: a method of settling collective bargaining disputes in which the parties to a dispute use a third person — called a mediator — as an intermediary.

Mediation officer: a person appointed by the Minister of Labour to act as a mediator.

Multi-union certification: certification of two or more unions as a single bargaining unit.

Notice-to-bargain: a notice, served by either the union or employer to the other, to initiate collective bargaining.

Order: a ruling made by the Labour Relations Board to correct a contravention of the Labour Code.

Perishable property: goods or commodities that are subject to imminent spoilage, and that may soon become dangerous to life, health, other goods, commodities or property.

Picketing: a peaceful means by which employees can increase pressure on their employer to agree to terms and conditions of work favourable to them; also, an attempt to persuade persons not to do work for, or do business with, the employer.

Professional strikebreaker: a person who is not a party involved in a dispute, but whose primary object is to prevent, interfere with, or break up a lawful strike.

Raiding: an attempt by one union to induce members of another union to defect and join its ranks.

Representation vote: a vote ordered by the Labour Relations Board to determine whether employees in a bargaining unit want to have a particular union represent them as their bargaining agent.

Returning officer: a person who arranges and conducts a vote by either a union or an employer association.

Special officer: a person appointed by the Minister of

Labour to deal with disputes during the term of a collective agreement.

Strike: a refusal by employees to work, in order to compel an employer to agree to terms and conditions of employment.

Strike notice: an announcement, in writing, given to the employer by the union, that the employees will go out on strike.

Successor rights: the inheritance, by a new owner, lessee or transferee of a business, of existing certification and collective agreements.

Successor union: a union that suceeds another by means of a merger, amalgamation or transfer of jurisdiction.

Technological change: a change in work or equipment, or a change in the method of work, because of the introduction of new equipment or materials.

Unfair labour practice: any conduct that interferes with the rights guaranteed by the Code — e.g., the right to participate in the lawful activities of a union.

Union: an association of employees formed for the purpose of furthering their interests with respect to terms and conditions of employment.

Union security clause: a clause in a collective agreement making union membership compulsory for all or some of the employees in a bargaining unit.

Work stoppage: a cessation of normal business operations; a strike or lockout.

INDEX

A

Ally, of employer, 35

Applications: filing of, 14; forms used in, 14; Labour Code regulations for, 14; procedure of Labour Relations Board concerning, 15

Application for certification, 20-25: employer's conduct during, 21; hearings concerning, 22; membership evidence in reference to, 23; notification of employees affected by, 21; role of industrial relations officer in, 21; and support for union, 23, 24

Arbitration, 7: provision for in collective agreement, 28; provision for in Labour Code, 29; under Essential Service Disputes Act, 11-12

Arbitration board: disputes under collective agreement adjudicated by, 30: grounds of appeal of decision of, 32

Associated companies, 39

B

Bargain, in good faith, 19, 26: refusal to, 27

Bargaining agent, 6, 20, 25: accredited employer organizations as, 40; change of, 37; council of unions as, 16, 39; duty of fair representation by, 25

Bargaining equation, changes in, 37-40

Bargaining unit, 6: and application for certification, 22; collective agreement binding on, 26; determination of by Labour Relations Board, 22, 23; representation of by union, 24, 25; union support in, 24

C

Canada Labour Code, employees covered by, 9

Cease-and-desist order, 14

Certification, 20, 26: effect of, 25; employees' wishes concerning, 23; and membership in good standing, 22, 23; representation vote concerning, 23; of union, 6; variance of, 37-40

Certification application: see Application for certification

Closed shop, 29

Collective agreement, 6, 26-27: basic standards of, 6; cancellation of, 38; changes to, 29; disputes during life of, 7, 28; definition of, 28; duration of, 27, 28; general content of, 28; and good-faith bargaining, 26; grievance and arbitration procedures during life of, 30, 31, 32; imposition of, 17, 27; Labour Relations Board involvement in, 28; notice for renewal of, 26; statutory provisions required in, 28; strikes and lockouts during term of, 7, 33; successor employers during life of, 39; and technological change, 16, 29; time limit for reaching, 37; union security clauses in, 29

Collective bargaining, 6, 26-27: and bargaining unit, 22, 23; federal jurisdiction in, 9; and Labour Relations Board, 11; notice to commence, 26, 27; as prime concern of Labour Code, 6; unfair labour

practices during, 27

Complaints, 36; filing of, 14; forms used in, 14; Labour Code regulations concerning, 14; procedure of Labour Relations Board regarding, 15; time limit for, 15; of unfair labour practices, 17

Constitution Acts, 1867 to 1981, 8

Contractors, 8

Cooling-off period, and Essential Service Disputes Act, 11, 12

Corporate shift, 39

Council of unions, 16, 39

Court of Appeal (B.C.), jurisdiction of, 32

D

Decertification, 38: and employer's influence, 38; reasons for, 38; vote concerning, 38

Decisions, of Labour Relations Board, 16

Duty of fair representation, 6, 19, 20, 25

E

Eligibility: date, 24; questions of, 24

Employees: definition by Labour Code of, 6; effect of certification on, 25; in federal jurisdiction, 9; and formation of unions, 22; not covered by Labour Code, 7; rights of, 6, 17, 18, 39; status under the Labour Code, 8; and strikes, 33, 34; and union representation, 6, 25; and unfair labour practices, 17-19; unorganized, 41; wishes of, 22

Employers: activities prohibited during collective bargaining, 26; and applications for certification, 21; conduct prohibited of, 17; effect of certification on, 25; and lockouts, 34; rights of, 6, 17, 18

Employer organizations, 6, 7, 39; withdrawal of member from, 39

Employment standards legislation, 41

Essential Service Disputes Act: arbitration under, 11, 12; and cooling-off period, 12; options available under, 12; services covered by, 11, 12

Evidence, opportunity to submit, 12, 13

G

Good-faith bargaining. See Bargain, in good faith

Grievance: and third party adjudication, 30; under terms of a collective agreement, 30

Grievance arbitration, and Labour Relations Board, 29, 30

Grievance procedures, and officer appointed by the Minister of Labour, 31

H

Health, concern for, 35

Hearings: in absence of a party, 15; certification application, 21; notification of parties to, 15; procedure of Labour Relations Board in, 15; regarding strikes, lockouts, and picketing, 35; no requirement for, 15

Human Rights Code, unions must comply with, 20

I

Industrial relations officer, 13: and application for certification, 21; application or complaint investigations by, 14; unfair labour practices investigation by, 17, 18

Investigation: by industrial relations officer, 13; by Labour Relations Board, 13

J

Jurisdiction: federal, 8, 9; to hear appeals, 32; of Labour Relations Board, 10-11, 32; provincial, 8

L

Labour Code: administration of, 10; violation of, 13-14

Labour Relations Board: administration of Labour Code by, 10; and appeals of decisions of arbitrators, 32; and applications for certification, 20-22; applications or complaints to 10, 11; and associated companies, 39; and changes in bargaining structure, 37-40; composition of, 12; decision-making by, 15; decisions regarding legality of picketing, 35-36; determination of bargaining unit by, 22-23; discretion of, in ordering votes, 24; and employee status, 8; grievance arbitration involvement of, 30, 31; and Human Rights Code, 20; and imposition of first collective agreement, 27; investigation by, 12; involvement of, in terms of collective agreement, 28; jurisdiction of, 10, 11, 12; objectives and purposes of, 10; orders made by, 14; other Acts administered by/ 11; panel of, 12; power of review, 32; powers of, 11; reconsiderations by, 16; remedies available to, 13; responsibility of, 10; and unfair labour practices, 17-19

Lockouts, 33, 34-36: notice of, 34; permitted by Labour Code, 6; prohibited during term of collective agreement, 6; regulation of, 34; vote concerning, 34. See Strikes and lockouts

M

Mediation, 33

Mediation officer, 33, 34; application to Minister for, 33; appointment of, 16

Membership, as a condition of employment, 29

Membership in good standing: as a condition in application for certification, 20-22; as requirement for certification, 23, 24; of union, 20

Minister of Labour, 16, 32: appointment of arbitrator by, 16; appointment of mediation officer by, 16, 33; and council of unions, 16, 39; and effects of technological change, 16; and imposition of first collective agreement, 16, 27; and employment standards legislation, 41; role of, 16; role in grievance procedures, 30

N

Notice to commence collective bargaining, 26

O

Officer: appointed by Labour Relations Board, 31, 32; appointed by the Minister of Labour, 32; involvement of, in grievance arbitration, 30, 31

Order: enforcement of, 13; of Labour Relations Board, 13; restraining strikes, lockouts, picketing, 35

P

Perishable property, 34

Picketing, 35, 36: of ally of employer, 36; legality of, 35, 36; of other sites of business, 35; permitted by Labour Code, 6; prohibited during collective agreement, 7; purpose of, 35; restriction of, 36

Professional strikebreaker, 35

Public interest, consideration of, by Labour Relations Board, 10

Public Service Relations Act, 11

R

Raid, 37, 38

Rand formula, 30

Reconsideration by Labour Relations Board, 15-16: basis for, 15; time limit for, 16

Reinstatement of an employee, 14

Religious conscience: exemption because of, 30

Remedies, available to Labour Relations Board, 13

Report, of industrial relations officer, 18. See Industrial relations officer

Representation vote: concerning certification, 23; to determine wishes of employees, 23, 24; and eligibility date, 24; participation by employees in, 24; and returning officer, 24; and scrutineer, 23; and unfair labour practices, 23

Returning officer, 24

Rights, 6, 17. See Employees, and Employers

S

Safety, concern for, 34

Scrutineer, 23

Secret ballot, 24, 34

Section 96(1) application, 31, 32

Strikes, 33: permitted by Labour Code, 6, 7. See Strikes and lockouts

Strikes and lockouts, 6, 7: legality of, 33; notice of, 34, 35; and perishable property, 34; prohibited during life of collective agreement, 33; restrictions on timing of, 34; votes concerning, 34

Successor employers, 39: and rights of employees, 39

Supervisors, 8

Supreme Court of B.C., 14

T

Technological change: collective agreement and, 16; Minister of Labour and, 16; provision for resolving disputes concerning, 29

U

Unfair labour practice: authority for remedies of, 13; collective bargaining and complaints of, 26, 27; during negotiation of first collective agreement, 30; prohibited by Labour Code, 6, 17; rights and prohibitions concerning employees, employers, and unions, 17-19; and representation vote, 23; and union security clauses, 29

Union security clauses, 29: and first collective agreement, 30

Union shop, 29, 30

Unions: as bargaining agent, 6; compliance with Human Rights Code by, 20; decertification of, 38; formation of, 20; membership in, 20-21; membership evidence of, 23; and raids, 37, 38; right to bargain of, 6; and unfair labour practices, 18

Unorganized employees, 41

V

Violation, of Labour Code, 13, 14

Burnaby
Deer Lake Centre
4946 Canada Way
Burnaby, B.C.
V5G 4J6
299-7211

Chilliwack
45904 Victoria Avenue
Chilliwack, B.C.
V2P 2T1
792-0634

Cranbrook
Room 101-117-10th Ave. S.
Cranbrook, B.C.
489-4761 or 4762
or 489-3521 Local 261
or 234

Dawson Creek
1201-103rd Avenue
Dawson Creek, B.C.
V1G 4J2
782-5931

Kamloops
220-546 St. Paul Street
Kamloops, B.C.
V2C 5T1
374-7165

Kelowna
206-1626 Richter Street
Kelowna, B.C.
V1X 2M3
860-7616

Victoria
3rd Floor, 880 Douglas St.
Victoria, B.C.
V8W 2B7
387-1381

Courtenay
941B England Avenue
Courtenay, B.C.
V9N 2N7
338-8344

Nanaimo
238 Franklyn Street
Nanaimo, B.C.
V9R 2X4
753-9185

Nelson
Provincial Building
310 Ward Street
Nelson, B.C.
V1L 5S4
352-2211

Prince George
4th Floor, Plaza 400
1011-4th Avenue
Prince George, B.C.
V2L 3H9
562-8131

Terrace
2nd Floor, 4548 Lakelse Ave.
Terrace, B.C.
V8G 1P8
638-8191

Williams Lake
307-35 South 2nd Avenue
Williams Lake, B.C.
V2G 3W3
392-6261

Province of British Columbia
Ministry of Labour